

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA

§ CRIMINAL NO. H-06-447M

V.

§ AFFIDAVIT IN SUPPORT OF

RANDY GONZALES

§ REQUEST FOR EXTRADITION

§

**AFFIDAVIT IN SUPPORT OF  
REQUEST FOR EXTRADITION**

Robert M. Sherman, being duly sworn, depose and state:

1. I am a citizen of the United States and I reside in the State of Texas. Since 1991, I have been a Special Agent of the U.S. Immigration and Customs Enforcement (ICE) and its predecessor, the U.S. Customs Service. From 1981 to 1991, I was an officer and Sergeant with the Houston Police Department. Based upon my training and experience, I am knowledgeable about criminal laws concerning counterfeiting of pharmaceutical drugs in violation of Title 21, United States Code, Section 331(i), conspiracy and trafficking in counterfeit goods, in violation of Title 18, United States Code, Sections 371 and 2320(a).

2. I submit this affidavit in support of the request by the United States of America for the extradition of RANDY GONZALES from Thailand to the United States for the purpose of prosecuting him on the charges contained in a Criminal Complaint, Criminal Docket Number H-06-447M.

3. This affidavit is in support of a criminal complaint for the arrest of RANDY GONZALES for violations of the Food Drug and Cosmetic Act (FDCA), conspiracy and criminal trademark offenses by trafficking in counterfeit pharmaceutical drugs.

**TRUE COPY I CERTIFY**

**ATTEST:**

**Michael N. Milby, Clerk of Court**

**By: Mercedes P. Lenna**

**Deputy Clerk**

## CASE BACKGROUND

### Introduction

4. The United States Food and Drug Administration (FDA) is the agency of the United States charged with the responsibility of protecting the health and safety of the American public by ensuring, among other things, that drugs sold for administration to humans bear labeling containing true and accurate information. The FDA's responsibilities include regulating the labeling and distributing of prescription drugs shipped or received in interstate commerce.

5. Immigration and Customs Enforcement (ICE) is an agency of the United States charged with the responsibility of investigating the smuggling of contraband, including counterfeit merchandise, into the United States.

6. Under the Food, Drug and Cosmetic Act, the definition of a "drug" includes articles which (1) are intended for use in the diagnoses, cure, mitigation, treatment or prevention of disease in man, and (2) are intended to affect the structure or function of the body of man. Due to the toxicity and other potentially harmful effects, certain drugs are not considered safe except for use under the supervision of a practitioner licensed by law to administer such drugs. These drugs are known as prescription drugs. Viagra and Cialis are prescription drug products that have been approved by the FDA for distribution within the United States.

7. Pfizer Pharmaceuticals (Pfizer) is the maker of Viagra and has the exclusive rights to distribute Viagra within the United States. The name "Viagra" is a trademark owned by Pfizer and is registered in the principal registry in the United States Patent and Trademark Office.

8. Eli Lilly Corporation (Eli Lilly) is the maker of Cialis and has the exclusive rights to distribute Cialis within the United States. The name "Cialis" is a trademark owned by Eli Lilly and is registered in the principal registry in the United States Patent and Trademark Office.

9. The Food Drug and Cosmetic Act also regulates the importation, delivery, distribution, and receipt of prescription drugs in interstate commerce. Under the Act, a prescription drug is deemed to be counterfeit if it bears a trademark without the authorization of the registrant of the trademark.

The Investigation of Randy Gonzales

10. This investigation originated in October 2005 when investigators of Pfizer pharmaceutical company contacted the Houston Office of the ICE Special Agent in Charge (SAC). Investigators working in Asia had been contacted via e-mail and telephone from an individual identifying himself as "Randy" and alternately using the e-mail addresses [ac220875@hotmail.com](mailto:ac220875@hotmail.com) and [omarichina@hotmail.com](mailto:omarichina@hotmail.com). Randy was subsequently identified as "RANDY GONZALES." GONZALES was offering undercover Pfizer investigators Viagra and other drugs for sale. At the direction of ICE SAC Houston, the Pfizer investigators provided GONZALES with an undercover telephone number and an e-mail address of a person named "Robert" purporting to be a trafficker in pharmaceuticals based in Houston, Texas. On October 5, 2005, GONZALES, using e-mail address [omarichina@hotmail.com](mailto:omarichina@hotmail.com), contacted the Pfizer investigator and stated his contact in Texas was named "Fayez" and that Fayez would call Mr. Robert.

11. On October 6, 2005, a Pfizer investigator met with GONZALES in Shanghai, Peoples Republic of China, and paid him \$625 for 25 30-count bottles of Viagra to be delivered to me, Robert, in Houston, Texas. GONZALES subsequently gave the investigator Fayez' cellular telephone number to give to me so that I could contact Fayez directly. The telephone number was (281) 731-0302. GONZALES was covertly photographed at the meeting.

12. On October 7, 2005, I contacted Fayez at the aforementioned number and arranged

to meet at the food court of the Greenspoint Mall located at 12300 North Freeway, Houston, Texas, to accept delivery of a package. At 11:30 a.m., I met Favez in the food court and went to his vehicle, a green Honda Accord bearing Texas license 411DCD. Favez retrieved the 25 30-count bottles from the trunk of his vehicle, pointed out and discussed the Pfizer label, foil security seal and blue diamond shaped Viagra tablets with registered trademarked markings. When I asked Favez if he could ask GONZALES if he could change the lot numbers on the bottles, Favez assured me that he would. I exchanged telephone numbers with Favez at the conclusion of the meeting.

13. Utilizing Texas Department of Public Safety and Citizen and Immigration Services databases and records, Favez was identified as FAYEZ ALEDOUS, a Jordanian national and Legal Permanent Resident of the U.S. with alien registration number 078 131 552. On October 10, 2005, GONZALES, using omarichina@hotmail.com, contacted the Pfizer investigator requesting feedback from me regarding the delivery, and added that he had other customers interested in merchandise. On October 12, 2005, I e-mailed GONZALES at omarichina@hotmail.com and commented on the successful delivery by ALEDOUS. I also expressed interest in future purchases. On October 13, 2005, GONZALES sent me an e-mail stating he had inventory in Texas. The e-mail regarding inventory stated:

***Omari Int'l. Group ( China ) Ltd." <omarichina@hotmail.com>*** wrote:

From: "Omari Int'l. Group ( China ) Ltd." <[omarichina@hotmail.com](mailto:omarichina@hotmail.com)>  
 To: "xerxes trading" <[xerxestrading@yahoo.com](mailto:xerxestrading@yahoo.com)>  
 Subject: Re: referral to Robert from jack and brian  
 Date: Thu, 13 Oct 2005 11:29:02 +0800

Hi Robert,

We have good inventory in texas, how many quantity u need to purchase our allocation are moving always.

Please let us know qty u need we are in the good possition of merchandize, label is not big deal don't worry about it.

For the Payment I discuss to Jack & Brian, once deal close in US we need the money in our account outside US.

Thanks

Randy

I engaged in numerous e-mail communications with GONZALES regarding future purchases. In an October 14, 2005, e-mail to GONZALES, I expressed interest in a purchase of 2000 Viagra tablets, specifically mentioning delivery by ALEDOUS.

14. On October 17, 2005, GONZALES replied via e-mail that he did not deal in such small orders. GONZALES maintained his minimum order was 1,000 bottles (30,000 tablets) but would allow me to make a 500-bottle order (15,000 tablets) at \$25.00 per bottle. On October 20, 2005, GONZALES sent an e-mail with Western Union wiring instructions for the method of payment. Payment was to be sent to Ding Bei HUA, Yiwu City, Zhejiang Province, China 322000. On November 6, 2005, I responded via e-mail that I preferred bank wiring instructions rather than Western Union. On November 6, 2005, GONZALES e-mailed me back with wiring instructions for Industrial & Commercial Bank of China, Zhejiang provincial branch, Yiwu sub-branch, account holder DING BEI HUA, account number JHYW 1208 0212 0110 1061 244. On November 9, 2005, I wired \$12,500 to the aforementioned account in China for the purchase of 500 bottles of Viagra. The e-mail regarding payment stated:

Omari Int'l. Group ( China ) Ltd." <omarichina@hotmail.com>

To: "xerxes trading" <xerxestrading@yahoo.com>

CC: asiapharmaceuticals@fastmail.com

Subject: Re: Viagra Order for Xerxes Trading

Date: Mon, 7 Nov 2005 12:59:07 +0800

Hi Robert

Got your order with thanks.

Attached Bank Account and wire to that account that we provide you with the amount of 12500.00USD.

We have good inventory don't worry.

About the qty for the next deal we finish the first deal we will discuss for the future deal.

Please send us the wire transfer by email once you done it.

Many thanks

Randy

15. On November 11, 2005, at 7:33 a.m., I received a call from telephone number 011 861

35169 51094. The calling party identified himself as GONZALES and spoke with a pronounced Filipino accent. GONZALES acknowledged receiving payment and asked if ALEDOUS had contacted me about the delivery. When I responded that I had not been contacted, GONZALES sounded disturbed and said he would call me back. At 7:23 p.m., GONZALES called me to determine if the pills had been delivered. When I again responded negatively, GONZALES stated he would take care of it. At approximately 8:27 p.m., I received a call from ALEDOUS' cellular phone but did not answer it. On November 12, 2005, I called ALEDOUS and made arrangements to accept delivery of the 500 bottles. On November 14, 2005, at approximately 11:20 a.m., I met ALEDOUS in a parking lot located at 6100 Westheimer, Houston, Texas. ALEDOUS produced a box containing 500 bottles containing blue diamond shaped tablets with registered trademark markings from the trunk of his Honda Accord. I closely examined and commented on the bottle, labels and tablets with ALEDOUS, and briefly discussed with ALEDOUS how quickly GONZALES was able to fill the order.

16. On November 15, 2005, I e-mailed GONZALES and informed him ALEDOUS had completed the delivery of 500 bottles of Viagra. On November 16, 2005, GONZALES sent an e-mail response stating he was glad to hear the transaction went smoothly. On January 9, 2006, I met ALEDOUS at 6100 Westheimer to discuss the pharmaceutical venture. In the course of the conversation, ALEDOUS admitted that he received the tablets, bottles and labels separately. Upon receipt of all the components, he assembled them for sale. ALEDOUS stated he had spoken to GONZALES two or three days before Christmas regarding a customer. I asked ALEDOUS for loose Viagra tablets and some unused sample Pfizer Viagra labels. I explained to ALEDOUS I sold the pills to small town pharmacies that mixed the pills with genuine ones. ALEDOUS agreed to deliver the tablets and labels the following day.

17. On January 10, 2006, at 1:22 p.m., I met ALEDOUS at the U.S. Post Office parking lot located at the 2900 block of Unity Drive, Houston, Texas. ALEDOUS provided me with approximately 600 blue diamond shaped tablets with the Pfizer registered markings and two sheets of unused, adhesive backed Pfizer Viagra labels. I paid ALEDOUS \$750 for the pills and labels.

18. On February 1, 2006, I met ALEDOUS at 2900 Unity, Houston, Texas, to purchase 30, 30-count bottles of Viagra. ALEDOUS arrived at 11:15 a.m. in his Honda Accord. I showed ALEDOUS a genuine 4-count Pfizer 100 mg Viagra bottle and compared it to ALEDOUS' bottle. I pointed out the differences between the labels' printing colors and security foil and compared the differences between a genuine tablet and one of ALEDOUS' tablets. I paid ALEDOUS \$1,100 and accepted custody of the 30 bottles. Pfizer investigators informed me that they sent a \$2,500 Western Union money wire to GONZALES on February 28, 2006, under tracking number 7852584946, and a second wire for \$300 on March 2, 2006, under tracking number 6053107134 for the purchase of Viagra. Records from Western Union revealed that an individual who identified himself as GONZALES accepted both money wires in the Peoples Republic of China.

19. On February 28, 2006, I received an e-mail from GONZALES at guli1984@gmail.com stating that it was his new address and to address all correspondence to the new address. Between February 28 and June 12, 2006, I engaged in numerous e-mail communications with GONZALES in which he offered me counterfeit Viagra and Cialis. On May 19, 2006, GONZALES sent me an e-mail stating he was closing his U.S. marketing due to customs matters. In subsequent e-mails, I discussed using the apparel importing business as a vehicle to smuggle his pills into the U.S. On June 2, 2006, in response to my emails, GONZALES sent me an e-mail expressing interest in meeting in Bangkok, Thailand, or China to discuss the importation of counterfeit pharmaceutical

drugs into the United States.

20. On June 1, 2006, I received a telephone call from GONZALES from number 011 86 131754 06940. GONZALES stated he had merchandise available in the U.S., and that he wanted to discuss a meeting in Bangkok. GONZALES said his U.S. connection was asking for a 100% markup, and that he wanted to liquidate his U.S. inventory and sever his current U.S. relationship. GONZALES again offered counterfeit Viagra and Cialis. I engaged in several e-mail communications with GONZALES regarding the U.S. inventory and product. On June 12, 2006, I received several emails from GONZALES regarding the importation and distribution of counterfeit pharmaceutical drugs bearing the trademarks Viagra and Cialis. Sample pills, bottles, labels and packaging taken from the undercover purchases of pharmaceutical drugs were sent to the Forensic Chemistry Center laboratory for the Food and Drug Administration and Pfizer, the registered trademark holder. The analysis indicated that the pills, labeling and packaging were counterfeit.

**Admissions by Randy Gonzales**

21. On March 7, 2007, GONZALES was arrested by Royal Thai Immigration officers upon his arrival at Bangkok International Airport, Bangkok, Thailand, pursuant to a request by the United States for his provisional arrest. GONZALES voluntarily waived his rights in writing and provided an oral, recorded statement to ICE investigators. GONZALES admitted to meeting MOHAMED GAWASMAH in Yiwu City, China, and introducing him to his employer, Hatem OMARI. He also admitted to picking up approximately 120,000 counterfeit Viagra tablets and bottles and 30,000 counterfeit Cialis tablets and bottles and concealing them in a shipping container that was sent to GAWASSMAH in Houston, Texas, on behalf of OMARI, in or about July or August 2005. He further admitted to engaging in both telephonic and e-mail negotiations

with an undercover ICE agent he knew as "Mr. Robert." He further admitted to arranging the delivery of 25 30-count bottles of counterfeit Viagra on October 7, 2005, and the delivery of 500 30-count bottles of counterfeit Viagra on November 15, 2005, to Mr. Robert in Houston, Texas. GONZALES correctly identified the interviewing ICE agent as Mr. Robert. GONZALES stated he recognized the agent's voice from the aforementioned telephone negotiations for the sale of counterfeit Viagra.

#### **IDENTIFICATION OF GONZALES**

22. On March 7, 2007, GONZALES arrived at Bangkok International Airport bearing Republic of Philippines passport number QQ0761014, identifying him as RANDY Ramos GONZALES, date of birth August 22, 1975.

23. A post-arrest photograph of GONZALES was shown to a Pfizer investigator who had met him in Shanghai, China, in October 2005, to negotiate the purchase of counterfeit Viagra. The investigator identified the subject in Thai custody as the GONZALES he met in Shanghai. In statements to Thai authorities and ICE agents, GONZALES also confirmed he was RANDY GONZALES.

#### **EXHIBITS**

24. Exhibit 1: A photograph of GONZALES taken during the meeting with a Pfizer undercover investigator on October 6, 2005.

25. Exhibit 2: A post arrest photograph of GONZALES taken on March 7, 2007 while in custody of the Royal Thai Police. GONZALES admitted that he was in fact GONZALES and that he had negotiated the sale and distribution of counterfeit drugs sold to ICE agents in Houston, Texas.

26. Exhibit 3: An image of a page taken from the Republic of Philippines passport in the

name of GONZALES, which was in his possession at the time of his arrest.

CONCLUSION

27. Based upon the forgoing, the United States of America respectfully requests that Randy GONZALES be extradited from Thailand to the United States of America, Southern District of Texas, for prosecution of the above criminal offenses.



ROBERT M. SHERMAN, SPECIAL AGENT  
Department of Homeland Security  
Immigration and Customs Enforcement

SUBSCRIBED to and SWORN to before me this 20<sup>+5</sup> day of April 2007



HONORABLE STEPHEN W. SMITH  
United States Magistrate Judge